



January 27, 2006

## HOUSE BILL No. 1338

DIGEST OF HB 1338 (Updated January 25, 2006 7:02 pm - DI 109)

**Citations Affected:** IC 20-24; IC 20-28; IC 20-31; IC 20-34; IC 34-30; noncode.

**Synopsis:** School improvement progress and awards. Establishes additional criteria for determining a school's improvement compared with the school's performance in previous years. Provides a graduated series of awards based on improvement. Requires certain schools to have an employee who has received instruction on the Heimlich maneuver or a similar procedure present while students are being served food. Establishes immunity from liability for an act or omission in the performance of these duties. Allows a person who has failed the teacher licensing examination at least two times to demonstrate proficiency by having the person's teacher education school or department certify to the department of education that the person possesses the content knowledge required by the examination. Requires the department of education to submit to the education roundtable for review and approval certain requirements for initial teacher licensure. Revises the purposes for which a grant may be used. Repeals certain prohibitions on the use of performance based awards granted under IC 20-31-11.

**Effective:** July 1, 2006.

**Harris T, Walorski, Heim, Porter**

January 10, 2006, read first time and referred to Committee on Education.  
January 26, 2006, amended, reported — Do Pass.

HB 1338—LS 6995/DI 71+



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January 27, 2006

Second Regular Session 114th General Assembly (2006)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2005 Regular Session of the General Assembly.

## HOUSE BILL No. 1338

A BILL FOR AN ACT to amend the Indiana Code concerning education.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 20-24-8-5, AS ADDED BY P.L.1-2005, SECTION  
2 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,  
3 2006]: Sec. 5. The following statutes and rules and guidelines adopted  
4 under the following statutes apply to a charter school:

- 5 (1) IC 5-11-1-9 (required audits by the state board of accounts).
- 6 (2) IC 20-26-6-2 (unified accounting system).
- 7 (3) IC 20-35 (special education).
- 8 (4) IC 20-26-5-10 and IC 20-28-5-9 (criminal history).
- 9 (5) IC 20-26-5-6 (subject to laws requiring regulation by state
- 10 agencies).
- 11 (6) IC 20-28-7-14 (void teacher contract when two (2) contracts
- 12 are signed).
- 13 (7) IC 20-28-10-12 (nondiscrimination for teacher marital status).
- 14 (8) IC 20-28-10-14 (teacher freedom of association).
- 15 (9) IC 20-28-10-17 (school counselor immunity).
- 16 (10) For conversion charter schools only, IC 20-28-6, IC 20-28-7,
- 17 IC 20-28-8, IC 20-28-9, and IC 20-28-10.

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- (11) IC 20-33-2 (compulsory school attendance).
- (12) IC 20-33-3 (limitations on employment of children).
- (13) IC 20-33-8-19, IC 20-33-8-21, and IC 20-33-8-22 (student due process and judicial review).
- (14) IC 20-33-8-16 (firearms and deadly weapons).
- (15) IC 20-34-3 (health and safety measures).
- (16) IC 20-33-9 (reporting of student violations of law).
- (17) IC 20-30-3-2 and IC 20-30-3-4 (patriotic commemorative observances).
- (18) IC 20-31-3, IC 20-32-4, IC 20-32-5, IC 20-32-6, IC 20-32-8, or any other statute, rule, or guideline related to standardized testing (assessment programs, including remediation under the assessment programs).
- (19) IC 20-33-7 (parental access to education records).
- (20) IC 20-31 (accountability for school performance and improvement).
- (21) IC 20-34-5 (employees trained in the Heimlich maneuver).**

SECTION 2. IC 20-28-5-13, AS ADDED BY P.L.1-2005, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 13. (a) This section applies to an examination required for teacher licensure under this chapter.

(b) If an individual does not demonstrate the level of proficiency required to receive a license on all or a part of an examination, the examination's scorer must provide the individual with the individual's test scores, including subscores for each area tested.

**(c) This subsection applies only to an individual who has taken the examination described in subsection (a) at least two (2) times and has failed to demonstrate proficiency in a test area by not more than two (2) points. An individual may demonstrate proficiency in a test area by having the teacher education school or department in which the individual is or was a student certify to the department that, based on the individual's course work, grades, fieldwork, and student teaching and on evaluations by the individual's instructors, the individual possesses the content knowledge required by the written examination.**

SECTION 3. IC 20-31-12 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]:

#### **Chapter 12. Additional School Improvement Criteria and Awards**

Sec. 1. As used in this chapter, the following terms have the

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following meanings:

(1) "Graduation rate" has the meaning set forth in IC 20-26-13-6.

(2) "High achieving" means a score that is in the ninetieth percentile or above on a section of the ISTEP program test.

(3) "Professional development" refers to activities that conform to the requirements set forth in IC 20-20-31.

(4) "Program" refers to the school improvement award program established by section 2 of this chapter.

Sec. 2. The school improvement award program is established to reward schools that show improvement over previous years' academic performance with a graduated series of awards.

Sec. 3. (a) The department shall administer the program.

(b) In addition to money appropriated by the general assembly, the department may use gifts and grants to provide funding for awards under this chapter.

Sec. 4. In addition to an assessment of improvement under IC 20-31-8-1, a school shall have the school's progress in school improvement determined by comparing the following performance factors with the same performance factors for the school in previous years:

(1) ISTEP scores, with the scores for the following categories of students reported and compared separately:

(A) Minority groups (as defined in IC 4-13-16.5-1).

(B) Limited English proficiency.

(C) Students receiving free or reduced price lunch under the national school lunch program.

(D) High achieving.

(2) For high schools, graduation rates.

Sec. 5. In addition to grants and awards received under IC 20-31-7 and IC 20-31-11, a participating school's progress in school improvement may be recognized with a performance award in the amount determined by the department.

Sec. 6. An award granted under this chapter may be used for any combination of the following purposes:

(1) Grants to certificated employees (as defined in IC 20-29-2-4) for professional development.

(2) School programs to increase parental involvement.

(3) Enhanced curriculum or instruction, or both.

Sec. 7. The principal of the school receiving an award under this chapter shall determine the manner in which the award is to be used after consulting a school improvement committee established

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under IC 20-31-5-1.

SECTION 4. IC 20-34-5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]:

**Chapter 5. Employees Trained in Heimlich Maneuver**

**Sec. 1. This chapter applies to a school that operates:**

- (1) a school lunch program (including a school lunch program under IC 20-26-9);
- (2) a school breakfast program (including a school breakfast program under IC 20-26-9); or
- (3) both a school lunch program and a school breakfast program.

**Sec. 2. As used in this chapter, "Heimlich maneuver" means a series of abdominal thrusts to help a person who is choking.**

**Sec. 3. As used in this chapter, "school" includes the following:**

- (1) A public school.
- (2) A charter school.
- (3) A nonpublic school that has voluntarily become accredited under IC 20-19-2-10.

**Sec. 4. As used in this chapter, "student" means a person enrolled in a school.**

**Sec. 5. A school shall require at least one (1) employee who has:**

- (1) received instruction approved by the department in methods to provide first aid to a person who is choking; and
- (2) demonstrated through training approved by the department an ability to perform the Heimlich maneuver or a similar procedure used to expel an obstruction from the throat;

**to be present while students are being served food.**

**Sec. 6. A school or an employee of a school is immune from civil liability for an act or omission concerning:**

- (1) performing duties required under section 5 of this chapter; or
- (2) providing or failing to provide first aid to a person who is choking;

**unless the act or omission amounts to gross negligence or willful misconduct.**

**Sec. 7. The department shall adopt rules under IC 4-22-2 to implement this chapter.**

SECTION 5. IC 34-30-2-87.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 87.5. IC 20-34-5-6 (Concerning**

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1 the presence at school of staff trained in the Heimlich maneuver  
2 and the provision or failure to provide first aid at school).

3 SECTION 6. IC 20-31-11-6 IS REPEALED [EFFECTIVE JULY 1,  
4 2006].

5 SECTION 7. [EFFECTIVE JULY 1, 2006] (a) Before October 1,  
6 2006, the department of education shall submit to the education  
7 roundtable for the roundtable's review and approval guidelines  
8 concerning the following requirements for initial teacher licensure:

9 (1) Standards.

10 (2) Examinations.

11 (3) Course work.

12 (4) Grades.

13 (5) Student teaching.

14 (6) Mentoring.

15 (b) This SECTION expires July 1, 2007.

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## COMMITTEE REPORT

Mr. Speaker: Your Committee on Education, to which was referred House Bill 1338, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 20-24-8-5, AS ADDED BY P.L. 1-2005, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 5. The following statutes and rules and guidelines adopted under the following statutes apply to a charter school:

- (1) IC 5-11-1-9 (required audits by the state board of accounts).
- (2) IC 20-26-6-2 (unified accounting system).
- (3) IC 20-35 (special education).
- (4) IC 20-26-5-10 and IC 20-28-5-9 (criminal history).
- (5) IC 20-26-5-6 (subject to laws requiring regulation by state agencies).
- (6) IC 20-28-7-14 (void teacher contract when two (2) contracts are signed).
- (7) IC 20-28-10-12 (nondiscrimination for teacher marital status).
- (8) IC 20-28-10-14 (teacher freedom of association).
- (9) IC 20-28-10-17 (school counselor immunity).
- (10) For conversion charter schools only, IC 20-28-6, IC 20-28-7, IC 20-28-8, IC 20-28-9, and IC 20-28-10.
- (11) IC 20-33-2 (compulsory school attendance).
- (12) IC 20-33-3 (limitations on employment of children).
- (13) IC 20-33-8-19, IC 20-33-8-21, and IC 20-33-8-22 (student due process and judicial review).
- (14) IC 20-33-8-16 (firearms and deadly weapons).
- (15) IC 20-34-3 (health and safety measures).
- (16) IC 20-33-9 (reporting of student violations of law).
- (17) IC 20-30-3-2 and IC 20-30-3-4 (patriotic commemorative observances).
- (18) IC 20-31-3, IC 20-32-4, IC 20-32-5, IC 20-32-6, IC 20-32-8, or any other statute, rule, or guideline related to standardized testing (assessment programs, including remediation under the assessment programs).
- (19) IC 20-33-7 (parental access to education records).
- (20) IC 20-31 (accountability for school performance and improvement).
- (21) IC 20-34-5 (employees trained in the Heimlich maneuver).**

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SECTION 2. IC 20-28-5-13, AS ADDED BY P.L.1-2005, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 13. (a) This section applies to an examination required for teacher licensure under this chapter.

(b) If an individual does not demonstrate the level of proficiency required to receive a license on all or a part of an examination, the examination's scorer must provide the individual with the individual's test scores, including subscores for each area tested.

**(c) This subsection applies only to an individual who has taken the examination described in subsection (a) at least two (2) times and has failed to demonstrate proficiency in a test area by not more than two (2) points. An individual may demonstrate proficiency in a test area by having the teacher education school or department in which the individual is or was a student certify to the department that, based on the individual's course work, grades, fieldwork, and student teaching and on evaluations by the individual's instructors, the individual possesses the content knowledge required by the written examination."**

Page 2, delete line 13, begin a new line double block indented and insert:

**"(A) Minority groups (as defined in IC 4-13-16.5-1)."**

Page 2, line 21, delete "the following awards:" and insert **"a performance award in the amount determined by the department.**

**Sec. 6. An award granted under this chapter may be used for any combination of the following purposes:**

- (1) Grants to certificated employees (as defined in IC 20-29-2-4) for professional development.**
- (2) School programs to increase parental involvement.**
- (3) Enhanced curriculum or instruction, or both.**

**Sec. 7. The principal of the school receiving an award under this chapter shall determine the manner in which the award is to be used after consulting a school improvement committee established under IC 20-31-5-1.**

SECTION 4. IC 20-34-5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]:

**Chapter 5. Employees Trained in Heimlich Maneuver**

**Sec. 1. This chapter applies to a school that operates:**

- (1) a school lunch program (including a school lunch program under IC 20-26-9);**
- (2) a school breakfast program (including a school breakfast program under IC 20-26-9); or**

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(3) both a school lunch program and a school breakfast program.

**Sec. 2.** As used in this chapter, "Heimlich maneuver" means a series of abdominal thrusts to help a person who is choking.

**Sec. 3.** As used in this chapter, "school" includes the following:

- (1) A public school.
- (2) A charter school.
- (3) A nonpublic school that has voluntarily become accredited under IC 20-19-2-10.

**Sec. 4.** As used in this chapter, "student" means a person enrolled in a school.

**Sec. 5.** A school shall require at least one (1) employee who has:

- (1) received instruction approved by the department in methods to provide first aid to a person who is choking; and
- (2) demonstrated through training approved by the department an ability to perform the Heimlich maneuver or a similar procedure used to expel an obstruction from the throat;

to be present while students are being served food.

**Sec. 6.** A school or an employee of a school is immune from civil liability for an act or omission concerning:

- (1) performing duties required under section 5 of this chapter; or
- (2) providing or failing to provide first aid to a person who is choking;

unless the act or omission amounts to gross negligence or willful misconduct.

**Sec. 7.** The department shall adopt rules under IC 4-22-2 to implement this chapter.

SECTION 5. IC 34-30-2-87.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 87.5. IC 20-34-5-6 (Concerning the presence at school of staff trained in the Heimlich maneuver and the provision or failure to provide first aid at school).**

SECTION 6. IC 20-31-11-6 IS REPEALED [EFFECTIVE JULY 1, 2006].

SECTION 7. [EFFECTIVE JULY 1, 2006] (a) **Before October 1, 2006, the department of education shall submit to the education roundtable for the roundtable's review and approval guidelines concerning the following requirements for initial teacher licensure:**

- (1) Standards.
- (2) Examinations.



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**(3) Course work.**

**(4) Grades.**

**(5) Student teaching.**

**(6) Mentoring.**

**(b) This SECTION expires July 1, 2007."**

Page 2, delete lines 22 through 42.

Delete page 3.

and when so amended that said bill do pass.

(Reference is to HB 1338 as introduced.)

BEHNING, Chair

Committee Vote: yeas 11, nays 0.

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